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Oceans and the law of the sea: large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas/illegal, unreported and unregulated fishing, fisheries by-catch and discards, and other developments

Australia, Austria, Belgium, Canada, Denmark, Fiji, Finland, France, Iceland, Ireland, Italy, Luxembourg, Marshall Islands, Micronesia (Federated States of), Namibia, Nauru, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Russian Federation, Samoa, Solomon Islands, Spain, Sweden, Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United States of America and Vanuatu: draft resolution

Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas/illegal, unreported and unregulated fishing, fisheries by-catch and discards, and other developments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994, 50/25 of 5 December 1995, 51/36 of 9 December 1996, 52/29 of 26 November 1997, 53/33 of 24 November 1998 and 55/8 of 30 October 2000, as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments, and noting resolution 57/... of 10 December 2002,

Noting that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations[1] sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

[1] *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), Sect. III.

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Welcoming the outcomes of the World Summit on Sustainable Development[2] concerning the importance of achieving sustainable fisheries to the maintenance of oceans, seas, islands and coastal areas as an integrated and essential component of the Earth's ecosystem, for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries,

Noting the importance of the wide application of the precautionary approach to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, in accordance with the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the Agreement"),[3] and the Code of Conduct for Responsible Fisheries,

Noting also the importance of implementing the principles elaborated in article 5 of the Agreement, including ecosystem considerations, in the conservation and management of straddling fish stocks and highly migratory fish stocks,

Noting further the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem[4] and decisions V/6 and VI/12 of the Conference of the Parties to the Convention on Biological Diversity,

Recognizing the importance of integrated, multidisciplinary and multisectoral coastal and ocean management at the national, subregional and regional levels,

Recognizing also that coordination and cooperation at the global, regional, subregional as well as national levels in the areas, inter alia, of data collection, information-sharing, capacity-building and training are crucial for the conservation, management and sustainable development of marine living resources,

Recognizing further the duty provided as a principle in the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas ("the Compliance Agreement"),[5] the Agreement and the Code of Conduct for Responsible Fisheries for flag States to exercise effective control over fishing vessels flying their flag and vessels flying their flag which provide support to such vessels, and to ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels,

Emphasizing the call made in the Plan of Implementation of the World Summit on Sustainable Development[6] for States to ratify or accede to and then effectively implement the Agreement and the Compliance Agreement and noting with concern that the latter agreement has not yet entered into force,

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[2] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (A/CONF.199/20), chap. I.

[3] Ibid., sect. I; see also A/CONF.164/37.

[4] E/CN.17/2002/PC.2/3, annex.

[5] *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

[6] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (A/CONF.199/20), chap. I, resolution 2, annex.

Noting that the Committee on Fisheries of the Food and Agriculture Organization of the United Nations in February 1999 adopted international plans of action for the management of fishing capacity, for reducing the incidental catch of seabirds in longline fisheries and for the conservation and management of sharks, and noting with concern that only a small number of countries have begun implementation of the international plans of action,

Concerned also that illegal, unreported and unregulated fishing threatens seriously to deplete populations of certain fish species and significantly damage marine ecosystems and that illegal, unreported and unregulated fishing has a detrimental impact on sustainable fisheries, including the food security and the economies of many States, particularly developing States, and, in that regard, urging States and entities referred to in the United Nations Convention on the Law of the Sea ("the Convention")[7] and in article 1, paragraph 2 (b) of the Agreement to collaborate in efforts to address these types of fishing activities,

Welcoming the adoption by the Food and Agriculture Organization of the United Nations in 2001 of an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, which focuses on the primary responsibility of the flag State and the use of all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

Noting that the objective of the International Plan of Action is to prevent, deter and eliminate illegal, unreported and unregulated fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations in accordance with international law,

Taking note with appreciation of the report of the Secretary-General,[8] and emphasizing the useful role that the report plays in bringing together information relating to the sustainable development of the world's marine living resources provided by States, relevant international organizations, regional and subregional fisheries organizations and non-governmental organizations,

Noting with satisfaction that the incidence of reported large-scale pelagic drift-net fishing activities in most regions of the world's oceans and seas has continued to be low,

Concerned that the practice of large-scale pelagic drift-net fishing remains a threat to marine living resources,

Expressing its continuing concern that efforts should be made to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift-nets that contravene the resolution,

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[7] See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

[8] A/57/459.

Expressing concern at the significant level of by-catch, including of juvenile fish, and discards in several of the world's fisheries, and recognizing that the development and use of selective, environmentally safe and cost-effective fishing gear and techniques will be important for reducing or eliminating by-catch and discards, and calling attention to the impact this activity can have on efforts to conserve and manage fish stocks, including restoring some stocks to sustainable levels,

Expressing concern also at the reports of continued loss of seabirds, particularly albatrosses, as a result of incidental mortality from longline fishing operations, and the loss of other marine species, including sharks and fin-fish species, as a result of incidental mortality, noting with satisfaction the successful conclusion of negotiations on the Agreement for the Conservation of Albatrosses and Petrels negotiated under the Convention on the Conservation of Migratory Species of Wild Animals, and encouraging States to give due consideration to participation in this Agreement,

Noting with satisfaction the recent entry into force of the Inter-American Convention for the Protection and Conservation of Sea Turtles and their Habitats, which contains provisions to minimize the incidental catch of sea turtles in fishing operations,

Noting also with satisfaction the recent adoption of regional sea turtle conservation instruments in the West African and Indian Ocean-South East Asia regions,

Recognizing the continuing need for the International Maritime Organization, the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, in particular its Regional Seas Programme, and regional and subregional fisheries management organizations and arrangements to address the issue of marine debris derived from land-based and ship-generated sources of pollution, including derelict fishing gear, which can cause mortality and habitat destruction of marine living resources,

1. *Reaffirms* the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention,[7] in particular the provisions on cooperation set out in part V and part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas, and where applicable, the Agreement;[3]

2. *Reaffirms also* the commitment made at the World Summit on Sustainable Development to restore depleted fish stocks on an urgent basis and where possible not later than 2015;

3. *Urges* all States to apply the precautionary approach widely to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

4. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and

decisions V/6 and VI/12 of the Conference of Parties to the Convention on Biological Diversity, supports continuing work under way in the Food and Agriculture Organization of the United Nations to develop guidelines for the implementation of ecosystem considerations in fisheries management, and notes the importance of relevant provisions of the Agreement and the Code of Conduct for Responsible Fisheries to this approach;

5. *Reaffirms* the importance it attaches to compliance with its resolutions 46/215, 49/116, 49/118, 50/25, 52/29, 53/33 and 55/8, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions;

6. *Reiterates* the importance of efforts by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including through financial and/or technical assistance, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

7. *Appeals* to States and regional fisheries organizations, including regional fisheries management bodies and regional fisheries arrangements, to promote the application of the Code of Conduct for Responsible Fisheries within their areas of competence;

8. *Encourages* coastal States to develop ocean policies and mechanisms on integrated management, including at the subregional and regional levels and also including assistance to developing States in accomplishing these objectives;

9. *Calls upon* States and other entities referred to in article 10, paragraph 1, of the Compliance Agreement[5] that have not deposited instruments of acceptance of the Agreement to do so, as a matter of priority;

10. *Also calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, without having effective control over their activities and to take specific measures, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

11. *Further calls upon* States, in accordance with Agenda 21, adopted at the United Nations Conference on Environment and Development,[9] to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management measures for fishing vessels on the high seas;

12. *Notes with satisfaction* the continuing activities in the Food and Agriculture Organization of the United Nations through its Interregional Programme of Assistance to Developing Countries for the Implementation of the Code of Conduct for Responsible Fisheries (including the Global Partnerships for Responsible Fisheries), as a special programme funded through donor trust fund

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[9] *Report of the United Nations Conference on Environment and Development, Rio de Janiero, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II.

contributions aimed at, inter alia, promoting the implementation of the Code of Conduct and its associated international plans of action;

13. *Encourages* States to implement directly or, as appropriate, through the relevant international, regional and subregional organizations and arrangements, the international plans of action of the Food and Agriculture Organization of the United Nations for reducing the incidental catch of seabirds in longline fisheries, for the conservation and management of sharks and for the management of fishing capacity, since according to the timetables contained within the International Plans of Action, progress on implementation, in particular through the development of national plans of action, should be either completed or at an advanced stage;

14. *Urges* States to develop and implement national and, where appropriate, regional plans of action, to put into effect by 2004 the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations and to establish effective monitoring, reporting and enforcement and control of fishing vessels, including by flag States, to further the International Plan of Action;

15. *Also urges* States, as a matter of priority, to coordinate their activities and cooperate directly and, as appropriate, through relevant regional fisheries management organizations, in the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, to promote information-sharing, to encourage the full participation of all stakeholders, and in all efforts to coordinate all the work of the Food and Agriculture Organization of the United Nations with other international organizations, including the International Maritime Organization;

16. *Invites* the Food and Agriculture Organization of the United Nations to continue its cooperative arrangements with United Nations agencies on the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and to report to the Secretary-General, for inclusion in his annual report on oceans and the law of the sea, on priorities for cooperation and coordination in this work;

17. *Affirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law;

18. *Notes with satisfaction* the continuing activities of the Food and Agriculture Organization of the United Nations aimed at providing assistance to developing countries in upgrading their capabilities in monitoring, control and surveillance, including through its Global Partnership for Responsible Fisheries project, "Management for Responsible Fisheries, Phase I", which provides assistance to developing countries in upgrading their capabilities in monitoring, control and surveillance, and improving the provision of scientific advice for fisheries management;

19. *Also notes with satisfaction* the establishment of the International Monitoring, Control, and Surveillance Network for Fisheries Related Activities, a voluntary network of monitoring, control and surveillance professionals designed to facilitate exchange of information and to support countries in satisfying their

obligations pursuant to international agreements, in particular the Compliance Agreement, and encourages States to consider becoming members of the Network;

20. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, while completing the efforts undertaken at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;

21. *Urges* States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that have not done so to take action to reduce or eliminate by-catch, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will minimize by-catch of juvenile fish;

22. *Notes with satisfaction* the activities of the Food and Agriculture Organization of the United Nations, in cooperation with relevant United Nations agencies, in particular United Nations Environment Programme and the Global Environment Facility, aimed at promoting the reduction of by-catch and discards in fisheries activities;

23. *Calls upon* the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, in particular its Regional Seas Programme, the International Maritime Organization, regional and subregional fisheries management organizations and arrangements and other appropriate intergovernmental organizations to take up, as a matter of priority, the issue of marine debris as it relates to fisheries and, where appropriate, to promote better coordination and help States to implement fully relevant international agreements, including annex V to the Guidelines of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

24. *Invites* States entitled to become parties to the Inter-American Convention for the Protection and Conservation of Sea Turtles and their Habitats to consider doing so, and to participate in its work;

25. *Also invites* States entitled to become parties to the Memorandum of Understanding Concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa and the Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia to consider doing so, and to participate in their work;

26. *Invites* regional and subregional fisheries management organizations and arrangements to ensure that all States having a real interest in the fisheries concerned may become members of such organizations or participate in such arrangements, in accordance with the Convention and the Agreement;

27. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

28. *Also requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on "Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments", taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting of elements to be provided by the General Assembly in its resolution on fisheries to be adopted at its fifty-eighth session;

29. *Decides* to include in the provisional agenda of its fifty-eighth session, under the item entitled "Oceans and the law of the sea", the sub-item entitled "Sustainable fisheries, including through the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments".